

## **REG-35-316 PICKLE CARD DISPENSING DEVICES: REGISTRATION; USE; AND RESTRICTIONS**

316.01 No coin-operated or currency-operated device shall be used for the dispensing of pickle cards unless a registration decal has been obtained from the Department and the decal has been permanently and conspicuously affixed to the device. The mechanical amusement device tax does not apply to coin- or currency-operated pickle card dispensing devices. For the purposes of this regulation, coin- or currency-operated pickle card dispensing devices shall include devices activated by the use of tokens or slugs.

316.02 Registration of such devices with the Department shall be made by application on a form prescribed by the Department and each application for a registration decal shall include:

316.02A The name and address of the licensed pickle card operator or licensed organization registering the device;

316.02B The state identification number of the licensed pickle card operator or licensed organization registering the device;

316.02C A detailed description of the physical appearance and operation of the coin-operated or currency-operated dispensing device;

316.02D If applicable, a copy of any written lease, rental, or sales agreement between the licensed organization and the licensed pickle card operator;

316.02E The fee as prescribed by Regulation 35-316.04; and

316.02F Such other information which the Department deems necessary.

316.03 Registration decals issued for pickle card devices shall expire on December 31 of each year and may be renewed annually. An application for renewal of the registration of a pickle card dispensing device shall be submitted to the Department on or before November 15 of each year.

316.04 A fee of \$50.00 shall be charged for each registration decal issued and such decal shall not be transferable from one machine to another or from one premise to another. The registration decal fee is due in full for any portion of the calendar year and will not be prorated for any portion of the year. Registration decal fees are not refundable, unless otherwise approved by the Department based upon a written request for refund and extenuating circumstances.

316.04A If a pickle card dispensing device breaks down and cannot be repaired, any permanent replacement device that is placed into use must be registered with the Department. For each permanent replacement device, the \$50.00 registration decal fee is required.

316.04B If a pickle card dispensing device breaks down and will be temporarily out-of-service, a temporary replacement device may be placed in use for a period of up to 30 days or until such time the original device has been repaired and placed back into use, whichever

occurs first. Under this circumstance, the \$50.00 registration decal fee will not be required for the temporary replacement device.

316.04B(1) The licensed organization or pickle card operator that is using a replacement device on a temporary basis shall notify the Department in writing of the following:

316.04B(1)(i) The name and address of the licensed organization or pickle card operator using the temporary replacement device;

316.04B(1)(ii) The state identification number of the licensed pickle card operator or licensed organization using the temporary replacement device;

316.04B(1)(iii) A detailed description of the replacement device including serial number, if applicable;

316.04B(1)(iv) The number of the current registration decal on the device that is temporarily out-of-service; and

316.04B(1)(v) The date the temporary replacement device was placed into service.

316.04B(2) Such notification shall be made within five working days of the date the temporary replacement device was placed into service.

316.05 Registration of each pickle card dispensing device shall be the responsibility of the licensed organization when such device is to be used at a licensed organization's designated premises or its own bingo game or the responsibility of the licensed pickle card operator when such device is to be used on the premises of the pickle card operator. For the purposes of this regulation, responsibility shall include filing the application and paying the fee for such registration decal. In the case of a licensed pickle card operator, such operator shall not be reimbursed for such registration decal fees by the licensed organization on whose behalf the operator sells pickle cards or by any licensed manufacturer, distributor or any other person.

316.06 A licensed organization or distributor shall not provide pickle card dispensing devices to pickle card operators free of charge, or for a rate less than fair market value. A licensed organization shall not extend credit to a pickle card operator on the rental, lease, or purchase of such devices. Payment for the purchase of such devices shall either be in advance or upon delivery. The payment terms of any lease or rental agreement regardless of the term of the lease, shall specify that the lease or rental payment be made in advance. Payment in advance shall mean on or before the placement of the device or on or before the first day of the period of the lease, whichever comes first. For example, if the lease terms specify a monthly rental payment, such payment shall be made on or before the first day of each month.

316.06A A licensed organization or distributor shall sell or rent pickle card dispensing devices to licensed pickle card operators at a rate not less than fair market value. The lease or rental of a pickle card dispensing device to a licensed pickle card operator shall be in writing and set forth all terms and conditions of the lease or rental.

316.06A(1) Fair market value, regarding the sale of pickle card dispensing devices, is the amount at which property would change hands in the open market, in competition with other similar devices, between a willing buyer and a willing seller, neither being under any compulsion to buy or sell, and both having reasonable knowledge of the relevant facts.

316.06A(2) Fair market value for leased or rented pickle card dispensing devices shall be determined by taking the cost of the device divided by thirty-six to arrive at a fair market value monthly lease rate.

316.06A(2)(i) A licensed organization or distributor shall not reduce the rental or lease rate of a pickle card dispensing device rented or leased to a licensed pickle card operator within three years of the date the device is first placed in service. The fair market value formula as prescribed in Regulation 316.06A(2) of this regulation shall remain in force.

316.06A(2)(ii) A licensed organization or distributor who leases a device may release such device to a licensed pickle card operator. The amount for which the device is leased or rented to the pickle card operator may be for the same amount of the organization's or distributor's lease, provided such amount is equal to or greater than the fair market value determined using the formula in Regulation 35-316.06A(2).

316.07 Any licensee which utilizes a pickle card dispensing device to sell pickle cards shall, upon request, provide the Department immediate access to any pickle cards contained within such device.

(Sections 9-341, 77-3001, and 77-3002, R.R.S. 1943. Sections 9-302, 9-343, and 9-347.01, Cum. Supp., 1990. Sections 9-322, 9-329.02, 9-340.02, 9-345.03, and 9-350, R.S.Supp., 1991. December 5, 1992.)